

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	19cr622 (DLC)
	:	
CARLOS ESPINAL,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

On February 5, 2020, Carlos Espinal pleaded guilty to a one-count superseding information charging him with participating in a conspiracy to distribute fentanyl, heroin and cocaine. Pursuant to a plea agreement, the Government and Espinal agreed that his sentencing guidelines range is 70 to 87 months' imprisonment. In the agreement, Espinal recognized that his conviction makes his removal from the United States "very likely." He was originally due to be sentenced on May 11, 2020.

Because of the COVID-19 pandemic, the sentence was adjourned first to June 19, and then to July 23. An Order of June 8, which effected the adjournment from June 19 to July 23 noted that the sentencing would proceed in court if that is possible. It required defense counsel to advise the Court whether the defendant consented to proceed by videoconference in the event an in-person sentencing proceeding could not occur on

July 23. It also ordered that the defendant's sentencing submission be filed by July 9.

Defense counsel did not file a sentencing submission on July 9. She did file a letter on that day indicating that Espinal would not consent to be sentenced through a videoconference proceeding.

An Order of July 15 reflected that no defense submission was filed on July 9. It extended defense counsel's deadline to July 17. It included detailed instructions for participants in the July 23 sentencing proceeding. It permitted defense counsel to participate remotely in the in-court proceeding with a colleague appearing in court, based on her representation that she could not appear in person.

Today, defense counsel advises the Court that she is unable to safely participate in court proceedings and seeks an adjournment until September 9 so that substitute counsel may have a meaningful opportunity to speak with Espinal and formulate a relationship with him. She notes as well that Espinal's family members would like to be present for the sentencing proceeding but are unable to travel to the courthouse at this time.


The parties have had notice of the July 23 sentencing date since June 8. No request for an adjournment of that date was made until today. While the courthouse was closed to in-person

court proceedings for several months due to the pandemic, the court has been available for in-person court appearances since July 6.

The defendant is entitled to be sentenced, to be moved to an appropriate institution for service of that sentence and/or for immigration proceedings. The defendant is entitled to be physically present in court for that sentencing proceeding and has elected to be so present. Defense counsel has a responsibility to obtain other counsel for the defendant if she is unable to represent him in an in-court proceeding and is unwilling to participate in that proceeding by telephone with co-counsel assisting her in the courtroom. Accordingly, it is hereby

ORDERED that the July 23 sentence is adjourned to **August 6, 2020 at 11:00 a.m.** Family members may attend the sentence or listen to the sentencing proceeding through a telephone link by calling **888-363-4749** and using access code **4324948**.

Dated: New York, New York
July 16, 2020



DENISE COTE
United States District Judge